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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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9 JERRY P. DIZON,) Case No. 12-4623-SC
10 Plaintiff,)
11 v.) ORDER DISMISSING CASE,
12 WELL'S FARGO HOME MORTGAGE,) RETAINING JURISDICTION OVER
13 Defendant.) DISCIPLINARY MATTER
14)

15 On December 11, 2012, the Court adopted as its Order the
16 recommendation of Magistrate Judge Nathanael Cousins that the
17 complaint of Plaintiff Jerry Dizon against Defendant Wells Fargo
18 Home Mortgage be dismissed. ECF No. 16. Since both Judge Cousins
19 and the undersigned shared a concern over the lack of diligence
20 evinced by Plaintiff's counsel, Mandip Purewal of the National
21 Consumer Law Group, and because the record showed that Mr. Purewal
22 had failed to comply with one of Judge Cousins's orders, the Court
23 referred to Judge Cousins the matter of whether and how Mr. Purewal
24 should be disciplined. Id.

25 On December 14, 2012, Plaintiff, through counsel, filed a
26 request to have his case dismissed with prejudice. ECF No. 18.
27 Though voluntary dismissals like the one requested here generally
28 are without prejudice, see Fed. R. Civ. P. 41(a)(1)(B), Plaintiff

1 has a right to dismissal without a court order in this case,
2 because Defendant has neither filed an answer nor a motion for
3 summary judgment, see Fed. R. Civ. P. 41(a)(1)(A). Accordingly,
4 the Court ORDERS that this case be DISMISSED WITH PREJUDICE,
5 pursuant to Plaintiff's request.

6 However, Plaintiff's voluntary dismissal of his case does not
7 divest the Court of jurisdiction over the pending disciplinary
8 matter. See Williamson Family Trust v. CIT Group/Consumer Fin., Inc.,
9 205 F. App'x 616, 617 (9th Cir. 2006) (citing Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 395 (1990)); see also United States v. Real Prop. Located at 475 Martin Lane, Beverly Hills, CA,
10 545 F.3d 1134, 1145 n.6 (9th Cir. 2008) (affirming Cooter & Gell's
11 holding that district courts may consider collateral issues "such as attorney fees or sanctions" following voluntary dismissal). The
12 Court retains jurisdiction over Plaintiff Dizon and Mr. Purewal for
13 purposes of resolving the pending disciplinary matter. That matter
14 remains referred to Judge Cousins.
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16 The Court ORDERS Mr. Purewal to provide a true and complete
17 copy of this Order to Plaintiff and to file a declaration stating
18 he has done so within five (5) days of the signature date of this
19 Order.
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21 IT IS SO ORDERED.
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24 Dated: December 19, 2012
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26 UNITED STATES DISTRICT JUDGE
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